



CITY OF DETROIT

Sixth Quarter

STATUS REPORT



To The

Independent Monitor

*FOR THE QUARTER ENDING
FEBRUARY 28, 2005*

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TABLE OF CONTENTS

I. INTRODUCTION.....	3
II. EXECUTIVE SUMMARY.....	4
III. CONDITIONS OF CONFINEMENT.....	7
IV. CONDITIONS OF CONFINEMENT STATUS CHART	18
V. USE OF FORCE	19
VI. TRAINING DIRECTIVES STATUS CHART	37
VII. USE OF FORCE STATUS CHARTS.....	38
VIII. APPENDIX	

The City of Detroit (City), the Detroit Police Department (DPD) and the United States Department of Justice (DOJ) entered into two Consent Judgments on July 18, 2003, one dealing with *Use of Force, Arrest and Witness Detention* (UOF CJ) and a second regarding *Conditions of Confinement* (COC CJ). This progress report (entitled the *Sixth Quarter Status Report to the Independent Monitor*) represents the City's continued progress toward achieving full compliance with the consent judgments, detailing the City's compliance efforts for the sixth quarter, which began December 1, 2004, and ended February 28, 2005.

THE CITY'S MOTION TO EXTEND THE CONDITIONS OF CONFINEMENT CONSENT JUDGMENT

As reported in the City's previous status reports, on July 18, 2004, the City of Detroit (the City) and the City of Detroit Police Department (DPD) filed a Motion to Extend the Conditions of Confinement Consent Judgment (COC CJ). Although the DOJ did not oppose the City's motion, the DOJ did not agree, nor did the City request, to extend any of the internal deadlines contained within the consent judgment.

Following a hearing and the filing of Court-ordered briefs by the parties on December 27, 2004, the Court issued its order regarding the City's motion. In his order, the Honorable Julian Abele Cook, Jr. noted that the City "has resolved that it has committed all of its resources to the development of a comprehensive plan which will result in full and total compliance with the terms and conditions with the two consent judgments."¹

The Court also recognized that the City had secured a funding source for a new detention facility as a result of the voters' recent approval [November 2nd election] of Proposal S, which authorizes the issuance of bonds for the purpose of constructing, renovating and rehabilitating public safety projects.² Finally, the Court, upon recognizing that the City had proffered a detailed plan and schedule for achieving compliance with the COC CJ, concluded that an extension of the COC CJ was "an acceptable remedy under the circumstances" and "in the interests of justice."³ The Court ruled the COC CJ be extended for two years until an effective deadline date of July 18, 2007.⁴

¹ Order of the Honorable Julian Abele Cook, Jr., United States District Court Judge, Eastern District of Michigan, Southern District, dated December 27, 2004 at p. 6.

² *Id.* at 5.

³ *Id.* at 6.

⁴ *Id.*

II.**EXECUTIVE SUMMARY**

The Civil Rights Integrity Bureau (CRIB) is now the Civil Rights Division (CRD) and has a new Commanding Officer due to the retirement of the previous Commanding Officer, Deputy Chief Fred Campbell. The CRD remains committed to achieving compliance with the Consent Judgments (CJ) and maintaining a positive working relationship with the Monitor and the DOJ. The CRD looks forward to facilitating compliance with the mandates of the CJ and improving the DPD's service delivery to the citizens of the city of Detroit.

The Sixth Quarter Status Report demonstrates to the Independent Monitor, the City, and its citizens the DPD's progress toward achieving compliance with the paragraphs being monitored during the reporting period ending February 28, 2005.

The sixth quarter review consists of a total of 82 paragraphs. Of the paragraphs reviewed, 33 were from the COC CJ and 49 pertain to the UOF CJ.

PARAGRAPHS REVIEWED DURING THE SIXTH QUARTER		
<i>CONDITIONS OF CONFINEMENT</i>	<i>USE OF FORCE</i>	
C-35 through 48 C-52 through 59 C-62 through 72	U-27 through 33 U-49 through 57 U60 U-72 through 77 U-84 through 85 U-88 d&e U-89	U-92 through 95 U-97 & 98 U-100 through 105 U-115 through 123 U-139

POLICIES

Significant progress has been made in the area of revising and disseminating policies during the sixth quarter. On February 8, 2005, the Compliance Liaison Officers were trained on The Citizens Complaint Brochures and Contact Forms. The Compliance Liaison Officers distributed the Citizens Complaint Brochures and Contact Forms to patrol personnel. A significant amount of the revised policies are currently under review by the DOJ and awaiting approval. The DOJ and/or Monitor have offered recommendations pursuant to CJ related policies and forms. The recommendations have been considered by the DPD and are currently being incorporated by the CRD, where warranted, into DPD policy.

The following approved policies were forwarded on February 22, 2005, to members of the DPD holding the rank of Inspector and above for distribution to all sworn and non-sworn DPD personnel and will become effective March 21, 2005.

- 1) Training Directive 04-1 - Confinement of Material Witnesses
- 2) Directive 202.7 - Foot Pursuit
- 3) Directive 404.1 - Definitions
- 4) Directive 401.1- Performance Evaluation Ratings
- 5) Citizens Complaint Brochures and Contact Forms

PROJECT MANAGEMENT

The Project Management Office (PMO) continues to conduct weekly Program Status Update meetings where the schedule, action items, and issues are reviewed and updated.

The PMO has developed a comprehensive Risk Management Plan specific to the CRD. Risks that delay compliance efforts are identified weekly at the Program Status Update meetings. All risks and risk contingency plans are reviewed monthly at the CRD Risk Management Committee Meeting (attended by members of the PMO, Holding Cell Compliance Committee (HCCC) and the CRD.)

All program documents are continuously updated and then stored on the common-shared drive so that all program team members have ready access to all program information. The PMO is also assisting project managers in other areas such as Science and Technology, Management Services Bureau, Training Division, Eastern and Western Operations, Internal Controls, Board of Police Commissioners (BOPC), and Personnel Bureau in the development of their project deliverables.

TRAINING

Twenty (20) officers were trained on the Custodial Detention lesson plans January 17-21, 2005. The Risk Management Bureau (RMB) began conducting classes to newly promoted supervisors on Implementing Risk Management in a Law Enforcement Agency commencing August 10, 2004.

To date, 167 supervisors have been trained which includes 60 in January 2005. The Risk Management training is currently being entered into the Interim Management Awareness System (IMAS) database. The Field Training Officer forty-hour (40) basic certification course was sent to the Monitor on February 11, 2005

The DPD sponsored a four day training session conducted by the Los Angeles Police Department (LAPD) audit team on January 4-7, 2005 (at the Holiday Inn located in Detroit, Michigan). Members of the CRD, PMO, HCCC, Training Division, and RMB attended this training to gain additional knowledge and skills in conducting improved and standardized audits. The course is a Michigan Commission on Law Enforcement Standards (MCOLES) authorized course.

The audit function is a DPD process that is not only beneficial in assessing CJ compliance but is also a process wherein the DPD can improve the service delivery process in all aspects of law enforcement in the community.

HOLDING CELL COMPLIANCE COMMITTEE

The Holding Cell Compliance Committee (HCCC) has completed the forms and policies as it relates to the COC CJ and they are in various stages of the approval process which encompasses DPD and BOPC approval minimally. Certain policies require DOJ review and approval as delineated by the COC CJ. The following four HCCC audits (Emergency Preparedness, Food Service, Detainee Safety and Medical & Mental Health) were completed, reviewed and submitted to the Monitor on January 31, 2005. As mentioned earlier, members of the HCCC attended the training conducted by the Los Angeles Police Department (LAPD) audit team to enhance their knowledge, skills, and abilities in the area of law enforcement performance auditing, which is a relatively new discipline in the field of auditing.

AUDITS

Members of the CRD Audit Team, who are professional auditors, also attended the four day training conducted by the LAPD Audit Team. to gain additional knowledge and skills in conducting law enforcement performance auditing, which is a relatively new discipline brought to the forefront through the advent of consent judgments. The Monitor has noted improvement in the DPD Audit Team's product after the training was conducted.

The CRD Audit Team has hired an additional civilian auditor whose background includes managerial experience within other audit organizations. Two additional sergeants have been added to the audit team, who will assist with audits and go out to DPD precincts and conduct inspections on a regular basis. The CRD Audit Team has also shortened the audit approval process allowing the Monitor and the Chief of Police to review the reports concurrently. The four audits which will be referenced later in this report were all completed, reviewed, and submitted on time to the Monitor as a result of the training and subsequent changes in the DPD approval process.

PARAGRAPHS REVIEWED FOR SIXTH QUARTER EVALUATION CONDITIONS OF CONFINEMENT:

The following 33 Conditions of Confinement Paragraphs were reviewed for this quarter:

C-35-48, C-52-59, C-62-72

Paragraph C-35

Prisoner Safety Policies

35. The DPD shall ensure a reasonable level of safety of staff and prisoners through the use of appropriate security administration procedures.

STATUS: The DPD has established protocols to ensure a reasonable level of safety for staff and prisoners through the use of appropriate security administrative procedures as outlined in the Detainee Intake and Assessment Directive 305.1. The directive was resubmitted to the Department of Justice (DOJ) on January 27, 2005, reflecting the comments and/or recommendations made by the DOJ in a December 15, 2004, memorandum. The detainee intake form was also submitted along with Directive 305.1. The DPD awaits the DOJ's response.

Paragraph C-36

Prisoner Safety Policies

36. The DPD shall develop and implement a prisoner security screening program for all buildings containing holding cells. At a minimum, the program shall:
- a. establish protocols based upon objective, behavior based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single-occupancy cells; and
 - b. require that security screening information is documented and communicated between consecutive shifts.

STATUS: Administrative procedures ensure continued prisoner security screening in buildings containing holding cells as outlined in the Detainee Intake and Assessment Directive 305.1. The directive was resubmitted to the DOJ on January 27, 2005, reflecting the comments and/or recommendations made by the DOJ in a December 15, 2004, memorandum. The DPD awaits the DOJ's response.

Paragraph C-37

Prisoner Safety Policies

37. The DPD shall develop and implement procedures for the performance, documentation and review of routine cell checks in all holding cells to ensure safe housing. At a minimum, these procedures should:
- a. require that cell checks on the general population are performed at least twice per hour and that cell checks on prisoners in observation cells and DRH holding cells are performed every 15 minutes, unless constant supervision is required; and
 - b. require detention officers to document relevant information regarding the performance of cell checks in an auditable log.

STATUS: Administrative procedures ensuring performance and documentation of routine cell checks is delineated in the Holding Cell Areas Directive 305.4 and Detainee Intake and Assessment Directive 305.1, which have been approved by the DPD and the BOPC. The Holding Cell Areas Directive 305.4 was forwarded to the DOJ on November 23, 2004, and subsequently approved.

The required mandates of the paragraph, frequency of cell checks, and documentation on the Platoon Summary Log are contained in the Detainee Intake and Assessment Directive 305.1. A standardized auditable log documenting cell checks is being developed by the HCCC. The DPD, however, has policies, procedures, and protocols in place that currently cause for DPD holding cells to be operated in a manner which incorporates the requirements of this paragraph.

Paragraph C-38

Prisoner Safety Policies

38. The DPD shall record in a written policy and implement a procedure that requires detention officers to provide continual direct or on-site remote observation of all observation cells while they are occupied.

STATUS: The Detainee Intake and Assessment Directive 305.1 has been approved by the DPD and the BOPC, and is currently under review by the DOJ and was resubmitted to the Monitor on January 27, 2005. The mandates of this paragraph have been satisfied. The DPD awaits the DOJ's response. It should be noted that the current practice of the DPD is compliant with the requirements of this paragraph.

Paragraph C-39

Environmental Health and Safety Policies

39. The DPD shall ensure that all holding cells are cleaned immediately and thereafter are maintained in a clean and sanitary manner.

STATUS: Due to the association between paragraphs 39 and 40 the status of these paragraphs is reported jointly under paragraph 40.

Paragraph C-40

Environmental Health and Safety Policies

40. The DPD shall design and implement a cleaning policy for all holding cells. The policy shall require routine cleaning and supervisory inspection of the holding cells and nearby areas.

STATUS: The Holding Cell Areas Directive 305.4 which dictates the timely performance of routine maintenance in all holding cells and documentation of maintenance requests and responses has been approved by the DPD and the BOPC. The mandates of this paragraph are included in this directive. DPD precinct holding cells are routinely closed, cleaned and disinfected by the method of **powerwashing** as reflected by teletype #05-01003 (see appendix for additional teletypes.)

Paragraph C-41

Environmental Health and Safety Policies

41. The DPD shall design and implement a maintenance policy for all holding cells that requires timely performance of routine maintenance and the documentation of all maintenance requests and responses in an auditable log.

STATUS: The DPD Holding Cell Areas Directive 305.4 addresses the provisions of this paragraph. The mandates of this paragraph are included in this directive. This directive *and the auditable log* have been submitted for review and a

compliance determination from the Monitor. The Weekly Holding Cell Maintenance Log and Holding Cell Cleaning Log are currently being revised.

Paragraph C-42

Environmental Health and Safety Policies

42. The DPD shall provide adequate heating and ventilation for all buildings containing holding cells.

STATUS: The DPD has commissioned environmental studies that have documented **compliance** with the ventilation component of this paragraph. It has also been documented that adequate heating is being provided for the facilities that contain holding cells. Per the Holding Cell Areas Directive 305.4 the holding cell areas shall be kept at a temperature between 66 and 80 degrees. The DPD's contractor, Great Lakes Power, has replaced all worn and defective heating and cooling equipment in the holding cells. The **compliance** requirements of the paragraph were met in the second quarter and the DPD has maintained with this paragraph.

Paragraph C-43

Environmental Health and Safety Policies

43. The DPD shall repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells.

STATUS: The DPD was found to be in **compliance** with this paragraph in the second quarter. The DPD has maintained **compliance** with this paragraph. Regular maintenance is conducted at all holding facilities.

Paragraph C-44

Environmental Health and Safety Policies

44. The DPD shall ensure that lighting in all cell block areas is sufficient to reach 20 foot-candles of illumination at desk level and in personal grooming areas.

STATUS: The DPD is conducting a needs assessment to determine the total amount of required upgrades to all holding cells, including all illumination requirements. This assessment, however, must take into account the voter's approval of Proposal S, which authorizes the issuance of bonds for the purpose of constructing, renovating and rehabilitating public safety projects which will allow the City to begin construction/renovation of a new state of the art holding cell facility that will satisfy COC CJ Environmental Health and Safety issues.

Paragraph C-45

Environmental Health and Safety Policies

45. The DPD shall provide all prisoners with reasonable access to toilets and potable water 24 hours-a-day.

STATUS: The DPD Holding Cell Areas Policy Directive 305.4 addresses the provisions of this paragraph. All detainees in DPD holding cells are provided access to toilets and potable water 24 hours a day. The **compliance** requirements of the paragraph have been met and have been maintained. The approved policy will be disseminated when the applicable forms are developed and/or approved.

Paragraph C-46	Environmental Health and Safety Policies
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46. The DPD shall ensure that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards.

STATUS: All Hepa-Aire purifiers have been removed. The DPD was found to be in **compliance** in the fourth quarter and has maintained compliance with this paragraph.

Paragraph C-47	Policies Concerning Persons with Disabilities
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47. The DPD shall ensure that persons with disabilities are provided with reasonable accommodations.

STATUS: Special Order 03-28 was issued on June 16, 2003, designating the 5th and 6th precincts as the primary designated accommodation for detainees that exhibit signs of, or claim disabilities. The 11th and 12th precincts have been designated as secondary locations. The referenced Special Order was submitted with the Second Quarter Status Report. As a quality control measure, the DPD is developing a form for tracking disabled prisoners. Detainee Intake/Assessment Policy Directive 305.1-7.3 (5) also addresses these issues. The **compliance** requirements of this paragraph have been met and maintained.

Paragraph C-48	Policies Concerning Persons with Disabilities
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48. The DPD shall develop and implement a policy concerning the detention of individuals with disabilities in consultation with qualified medical and mental health professionals. The policy shall be approved in writing by qualified medical and mental health professionals. Thereafter, the program shall be reviewed and approved in writing by qualified medical and mental health professionals at least every year and prior to any revisions to the program.

STATUS: The Detainee Intake and Assessment Directive 305.1 has been approved by the DPD and the BOPC, and addresses the provisions of this paragraph. On January 27, 2005, Directive 305.1 was forwarded to the DOJ reflecting the comments and/or recommendations made by the DOJ in a December 15, 2004, memorandum. The provisions of this paragraph are included in this policy. The DPD awaits the DOJ's response.

Paragraph C-52

Use of Force and Restraints Policies

52. The DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.

STATUS: Due to the association between paragraphs 52, 53, 54, 55, 56, and 57 the status of these paragraphs is reported jointly under paragraph 57.

Paragraph C-53

Use of Force and Restraints Policies

53. The DPD shall revise and augment its policies regarding prisoners to require that:
- a. officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;
 - b. absent exigent circumstances, officers notify a supervisor before using force on a prisoner who is confined to a cell; and
 - c. the supervisor assesses the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped.

STATUS: Due to the association between paragraphs 52, 53, 54, 55, 56, and 57 the status of these paragraphs is reported jointly under paragraph 57.

Paragraph C-54

Use of Force and Restraints Policies

54. The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

STATUS: Due to the association between paragraphs 52, 53, 54, 55, 56, and 57 the status of these paragraphs is reported jointly under paragraph 57.

Paragraph C-55

Incident Documentation, Investigation and Review

55. The DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

STATUS: Due to the association between paragraphs 52, 53, 54, 55, 56, and 57 the status of these paragraphs is reported jointly under paragraph 57.

Paragraph C-56 **Incident Documentation, Investigation and Review**

56. The DPD shall require that all uses of force occurring in DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

STATUS: Due to the association between paragraphs 52, 53, 54, 55, 56, and 57 the status of these paragraphs is reported jointly under paragraph 57.

Paragraph C-57 **Incident Documentation, Investigation and Review**

57. The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.

STATUS: Paragraphs 52 through 57, are incorporated in the updated Holding Cell Areas Directive 305.4.

Provisions of this paragraph are also incorporated in the Use of Force Directive 304.2 which was forwarded on February 8, 2005, to the DOJ for approval. Training Directive 04-07 also encompasses provisions of this paragraph. The DPD awaits the DOJ's response. It should be noted that every DPD member has been trained on the two CJ and possesses or has access to said agreement. The substance of these paragraphs are a part of the DPD's current practices and procedures.

Paragraph C-58 **External Complaints**

58. The DPD shall ensure that it accepts and processes all external complaints regarding incidents occurring in holding cells consistent with the DPD's external complaint policies.

STATUS: Due to the association between paragraphs 58 and 59 the status of these paragraphs is reported jointly under paragraph 59.

Paragraph C-59 **External Complaints**

59. The DPD shall ensure that all external complaints it receives regarding incidents occurring in holding cells are investigated and reviewed consistent with the DPD's policies concerning external complaint investigations and review.

STATUS: Paragraphs 58 and 59 are incorporated in the Citizen Complaints Policy Directive 102.2, have been approved by the DPD and the BOPC. The directive

was forwarded to the DOJ on September 9, 2004.

On November 16, 2004, the DPD and the Monitor held a teleconference regarding the Citizen Complaints Policy. On November 19, 2004, the directive was revised based on recommendations made during the teleconference. The directive was forwarded to the DOJ and the Monitor on November 30, 2004. The DPD awaits the DOJ's and Monitor's responses.

Paragraph C-62

Management and Supervision

62. The DPD shall routinely evaluate the operation of the holding cells to minimize the risk of harm to staff and prisoners.

STATUS: **Compliance** with this paragraph was attained with the creation of the HCCC, which held its first meeting on September 5, 2003. The Committee is chaired by the Commanding Officer of the HCCC. The members include personnel from the Detroit Fire Department, the Detroit Health Department, and various members of the DPD. The committee's goals are to assure continued **compliance** with the provisions of the COC CJ.

CRD personnel have and will continue to conduct audits and inspections to evaluate the operation of the holding cells to ensure minimal risk of harm to staff and prisoners.

Paragraph C-63

Management and Supervision

63. The DPD shall operate the holding cells in compliance with the DPD's comprehensive risk management plan including implementation of:
- a. the risk management database;
 - b. the performance evaluation system;
 - c. the auditing protocol;
 - d. regular and periodic review of all DPD policies; and
 - e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

STATUS: This paragraph requires operating the holding cells in compliance with the DPD's comprehensive Risk Management plan. The comprehensive Risk Management plan is currently under development.

Paragraph C-64

Management and Supervision

64. The DPD policy on video cameras shall be revised and augmented to require:
- a. the installation and continuous operation of video cameras in all prisoner processing areas of DPD holding cells within one year of the effective

- date of this Agreement;
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force and external complaints;
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and
- d. that the DPD conduct and document periodic random reviews of prisoner processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoner processing area video recording equipment to confirm that it is in proper working order.

STATUS: Video cameras have been installed in the processing areas of all DPD holding facilities. A protocol has been developed to address the review of captured video. On October 13, 2004, the Monitor provided TA on prisoner processing and in-car video review protocols. On February 21, 2005, the HCCC forwarded the video review protocol to the Training Division who will conduct beta testing and implement training for supervisors. The digital video cameras have been installed in **all** DPD prisoner processing areas.

Paragraph C-65

Management and Supervision

65. The DPD shall conduct regularly scheduled quarterly audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including:
- a. reviewing a sample of command, IAD, and Homicide Section investigations;
 - b. evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;
 - c. evaluating the preservation and analysis of the evidence;
 - d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;
 - e. evaluating the appropriateness of the investigator's conclusions; and
 - f. issuing a written report regarding the findings of the audit.

STATUS: The completed HCCC Detainee Safety Audit was reviewed, approved and submitted to the Monitor by the DPD on January 31, 2005. (See C-72)

Paragraph C-66

Management and Supervision

66. The DPD shall create a Holding cell compliance committee that is responsible for assuring compliance with requirements of this Agreement. The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate compliance with the fire detection, suppression and evacuation program, including:
- a. testing a sample of smoke detectors and sprinklers;

- b. testing the back-up power systems;
- c. reviewing a sample of fire equipment testing and maintenance records; and
- d. issuing a written report regarding the findings of the audit.

STATUS: The Fire Safety Audit will be completed in the semi-annual period ending July 31, 2005.

Paragraph C-67

Management and Supervision

67. The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate emergency preparedness, including:
- a. reviewing a sampling of key and fire equipment maintenance and inventory records;
 - b. interviewing selected detention officers about their participation in fire drills and on their responsibilities under the emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and
 - c. issuing a written report regarding the findings of the audit.

STATUS: The completed HCCC Emergency Preparedness Audit was reviewed, approved and submitted to the Monitor by the DPD on January 31, 2005. (See C-72)

Paragraph C-68

Management and Supervision

68. The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:
- a. reviewing a sampling of hospital referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;
 - b. observing intake screening interviews to assess thoroughness;
 - c. reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and
 - d. issuing a written report regarding the findings of the audit.

STATUS: The completed HCCC Medical & Mental Health Audit was reviewed, approved and submitted to the Monitor by the DPD on January 31, 2005. (See C-72)

Paragraph C-69

Management and Supervision

69. The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the detainee safety programs and policies, including:
- a. reviewing a sampling of security screening records, including written supervisory approvals, to ensure that prisoners are being properly screened and housed;
 - b. reviewing a sampling of the cell checks logs to ensure that checks are being accurately and regularly performed and that cell check logs are receiving supervisory review and written approval; and
 - c. issuing a written report regarding the findings of the audit.

STATUS: The completed HCCC Detainee Safety Audit was reviewed, approved and submitted to the Monitor by the DPD on January 31, 2005. (See C-72)

Paragraph C-70

Management and Supervision

70. The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the environmental health and safety programs, including:
- a. inspecting holding cells and surrounding areas to ensure that they are clean and clear of debris and that the lighting, sinks and toilets are operable;
 - b. reviewing a sampling of cleaning and maintenance logs to ensure they are properly maintained and reflect the scheduled performance of the requisite cleaning and maintenance tasks;
 - c. reviewing the systems in place for assuring that all prisoners have reasonable access to potable water and toilets 24 hours a day;
 - d. observing whether holding cells are free of any potential suicide hazards; and
 - e. issuing a written report regarding the findings of the audit.

STATUS: The next Environmental Health and Safety Audit will be completed in the semi-annual period ending July 31, 2005.

Paragraph C-71

Management and Supervision

71. The Holding cell compliance committee shall conduct regularly scheduled quarterly audits of all buildings containing holding cells to evaluate the food service program, including:
- a. reviewing a sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;

- b. assuring that food is handled in a sanitary manner; and
- c. issuing a written report regarding the findings of the audit.

STATUS: The completed HCCC Food Service Audit was reviewed, approved and submitted to the Monitor by the DPD on January 31, 2005. (See C-72)

Paragraph C-72

Management and Supervision

72. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.

STATUS: The following four audits (Emergency Preparedness, Food Service, Detainee Safety and Medical & Mental Health) were reviewed, approved and submitted by the DPD to the Monitor on January 31, 2005. The audits were forwarded to all Deputy Chiefs on February 15, 2005 who subsequently forwarded the audits to the precinct commanding officers for appropriate corrective and/or disciplinary action, where appropriate.

The quality and timeliness of the referenced audits is such that DPD commanders have also been apprised of identified objectives wherein their respective precincts have achieved compliance objectives.

The following is a list of COC CJ policies and their current status:

<u>Conditions of Confinement</u>	<u>Status</u>
305.1-Detainee Intake/Assessment	Under Review by DOJ
305.2-Detainee Registration	Under Review by Monitor
305.3-Detainee Property	No Review Necessary
305.4-Holding Cell Areas	Policy language deemed adequate to address compliance by Monitor
305.5-Detainee Health Care	Under Review by DOJ
305.6-Bonding	No Review Necessary
305.7-Detainee Transportation	Joint Review DOJ & Monitor/ Approved by DOJ

**PARAGRAPHS REVIEWED FOR SIXTH QUARTER EVALUATION
USE OF FORCE:**

The following 49 Use of Force Paragraphs were reviewed for this quarter:

U-27-33, U-50-57, U60, U-72-77, U-84-85, U-88d&e, U-89, U-92-95, U-97 & 98, U-100-105, U-115-123, U-139

Paragraph U-27	General Investigations of Police Action
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27. The DPD and the City shall revise their policies regarding the conduct of all investigations to ensure full, thorough and complete investigations. All investigations shall, to the extent reasonably possible, determine whether the officer's conduct was justified and the DPD and the City shall prohibit the closing of an investigation being conducted by the DPD and/or the City simply because a subject or complainant is unavailable, unwilling or unable to cooperate, including a refusal to provide medical records or proof of injury.

STATUS: Due to the association between paragraphs 27, 28, 29, 30, 32, and 33 the status of these paragraphs is reported jointly under paragraph 33.

Paragraph U-28	General Investigations of Police Action
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28. The DPD and the City shall ensure that investigations are conducted by a supervisor who did not authorize witness or participate in the incident and that all investigations contain:
- a. documentation of the name and badge number of all officers involved in or on the scene during the incident and a canvass of the scene to identify civilian witnesses;
 - b. thorough and complete interviews of all witnesses, subject to Paragraph 31 below and an effort to resolve material inconsistencies between witness statements;
 - c. photographs of the subject's(s') and officer's(s') injuries or alleged injuries; and
 - d. documentation of any medical care provided.

STATUS: Due to the association between paragraphs 27, 28, 29, 30, 32, and 33 the status of these paragraphs is reported jointly under paragraph 33.

Paragraph U-29	General Investigations of Police Action
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29. The DPD and the City shall revise their procedures for all investigatory interviews to require:

- a. officers who witness or are involved in an incident to provide a timely statement regarding the incident (subject to Paragraph 31 below);
- b. whenever practicable and appropriate, interviews of complainants and witnesses be conducted at sites and times convenient for them, including at their residences or places of business; and
- c. that all IAD, OCI and Critical Firearm Discharge Investigations shall also include in-person video or audio tape-recorded interviews of all complainants, witnesses, and involved DPD officers and prohibit group interviews. In cases where complainants/witnesses refuse in-person video or audio tape recorded interviews, written statements shall be taken and signed by the complainant/witness along with a signed refusal statement by the complainant/witness.

STATUS: Due to the association between paragraphs 27, 28, 29, 30, 32, and 33 the status of these paragraphs is reported jointly under paragraph 33.

Paragraph U-30 **General Investigations of Police Action**

30. The DPD and the City procedures for all investigatory interviews shall prohibit:
- a. the use of leading questions that improperly suggest legal justifications for the officer's(s') actions when such questions are contrary to appropriate law enforcement techniques; and
 - b. the use of interviews via written questions when it is contrary to appropriate law enforcement techniques.

STATUS: Due to the association between paragraphs 27, 28, 29, 30, 32, and 33 the status of these paragraphs is reported jointly under paragraph 33.

Paragraph U-31 **General Investigations of Police Action**

31. The DPD and the City shall develop a protocol for when statements should (and should not) be compelled pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967).

STATUS: The updated Garrity Protocol was reviewed at the CRD on September 28, 2004. After revisions were made, the protocol was forwarded to the DOJ and Monitor on October 25, 2004. The DPD awaits DOJ and Monitor responses.

Paragraph U-32 **General Investigations of Police Action**

32. The DPD shall revise its policies regarding all investigatory reports and evaluations to require:
- a. a precise description of the facts and circumstances of the incident, including a detailed account of the subject's(s') or complainant's(s') and officer's(s') actions

- and an evaluation of the initial stop or seizure;
- b. a review of all relevant evidence, including circumstantial, direct and physical evidence;
- c. that the fact that a subject or complainant pled guilty or was found guilty of an offense shall not be considered as evidence of whether a DPD officer engaged in misconduct, nor shall it justify discontinuing the investigation;
- d. reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant;
- e. an evaluation of whether an officer complied with DPD policy;
- f. an evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;
- g. all administrative investigations to be evaluated based on a preponderance of the evidence standard;
- h. written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough and that problems with investigator vacations or workload should result in the matter being reassigned; and
- i. any recommended non-disciplinary corrective action or disciplinary action be documented in writing.

STATUS: Due to the association between paragraphs 27, 28, 29, 30, 32, and 33 the status of these paragraphs is reported jointly under paragraph 33.

Paragraph U-33

General Investigations of Police Action

33. The DPD shall revise its policies regarding the review of all investigations to require:
- a. investigations to be reviewed by the chain of command above the investigator;
 - b. the reviewing supervisors to identify any deficiencies in those investigations and require the investigator to correct any deficiencies within seven days of the submission of the report and evaluation to the reviewing supervisor;
 - c. the reviewing supervisors to recommend and the final reviewing authority to refer any incident with training, policy or procedural implications to the appropriate DPD unit;
 - d. appropriate non-disciplinary corrective action and/or disciplinary action when an investigator fails to conduct or reviewing supervisor fails to evaluate an investigation appropriately; and
 - e. a written explanation by any supervisor, including the Chief of Police, who disagrees with a finding or departs from a recommended non-disciplinary corrective action or disciplinary action, including the basis for the departure.

STATUS: These paragraphs are addressed in Use of Force Reporting Training Directive 04-07, and the revised Use of Force Directive which is under review by the DOJ. Revisions to the training directive were made based upon the DOJ's recommendations and comments. The training directive was resubmitted to the DOJ on October 11, 2004. On December 17, 2004, the DPD received comments and/or recommendations from the DOJ related to the Use of Force Training Directive. The related auditable form UF-002 (Prisoner and Injury Report) is awaiting Monitor comment.

Paragraph U-49

Prompt Judicial Review Policies

49. The DPD shall revise its policies to require prompt judicial review, as defined in this Agreement, for every person arrested by the DPD. The DPD shall develop a timely and systematic process for all arrestees to be presented for prompt judicial review or to be released.

STATUS: Due to the association between paragraphs 49, 50, and 51 the status of these paragraphs is reported jointly under paragraph 51.

Paragraph U-50

Prompt Judicial Review Policies

50. The DPD shall require that, for each arrestee, a warrant request for arraignment on the charges underlying the arrest is submitted to the prosecutor's office within 24 hours of the arrest.

STATUS: Due to the association between paragraphs 49, 50, and 51 the status of these paragraphs is reported jointly under paragraph 51.

Paragraph U-51

Prompt Judicial Review Policies

51. The DPD shall document on an auditable form all instances in which the request for an arraignment warrant is submitted more than 24 hours after the arrest. The DPD shall also document on an auditable form all instances in which it is not in compliance with the prompt judicial review policy and in which extraordinary circumstances delayed the arraignment. The documentation shall occur by the end of the shift in which there was:

- 1) a failure to request an arraignment warrant within 24 hours,
- 2) a failure to comply with the prompt judicial review policy, or
- 3) an arraignment delayed because of extraordinary circumstances.

STATUS: The Arrest Policy "Prompt Judicial Review" Directive 202.1 has been approved by the DPD and the BOPC. Based on TA from the Monitor the directive was revised. Auditable Form UF-004 was also revised. The revised policy satisfies the requirements of the paragraphs.

The DPD has a systematic process to assure that arrestees will be arraigned in 48 hours. A daily prisoner report is generated by DPD precincts, and forwarded to the Risk Assessment Unit. The RMB oversees the process, and is currently developing a protocol to be submitted to the Monitor. All auditable forms as related to the Arrest Directive 202.1 are completed and awaiting comment from the Monitor.

Paragraph U-52

Hold Policies

52. The DPD shall revise its hold policies to define a hold as that term is defined in this Agreement and require that all holds be documented. The policy shall establish a timely and systematic process for persons in DPD custody who have holds issued by a City of Detroit court to have those holds cleared by presenting the arrestee to the court from which the warrant was issued or the setting and posting of bond where applicable. The fact that an arrestee has not been arraigned or charged on the current arrest shall not delay this process.

STATUS: Due to the association between paragraphs 52 and 53 the status of these paragraphs is reported jointly under paragraph 53.

Paragraph U-53

Hold Policies

53. The DPD shall document all holds, including the time each hold was identified and the time each hold was cleared. The DPD shall document on an auditable form each instance in which a hold is not processed within twenty-four hours on a daily basis.

STATUS: The Detainee Registration Policy Directive 305.2 was forwarded to the Monitor November 15, 2004, and revised to address the issues in the Monitor's fourth quarter report (timely and systematic process). Teletype #04-06054-57 advising personnel of the necessity to record exact times on documents was disseminated to all DPD members. The related auditable form is currently under revision.

Paragraph U-54

Restriction Policies

54. The DPD shall develop a policy regarding restricting detainee's access to telephone calls and visitors that permits individuals in DPD custody access to attorneys and reasonable access to telephone calls and visitors.

STATUS: Holding Cell Areas Policy "the Restriction Policy" Directive 305.4 has been approved by the DPD and the BOPC and teletype #04-002568 was disseminated. The DOJ provided TA and changes were made to reflect the assistance. The directive was forwarded to the DOJ and the Monitor on October 14, 2004. Previously (fourth quarter) the Monitor indicated that the directive generally addressed the mandates of the paragraph. The DPD awaits a more

definitive response on other areas of the directive from the Monitor.

Paragraph U-55

Restriction Policies

55. The DPD shall require that such restrictions be documented and reviewed at the time the restriction is issued and reevaluated each day in which the restriction remains in effect. The DPD shall document on an auditable form any violation of the restriction policy by the end of the shift in which the violation occurred.

STATUS: The Restriction Policy is contained in the Holding Cell Areas Policy Directive 305.4. The Monitor provided TA on auditable form UF-008 on February 9, 2005, and the DPD awaits comments from the Monitor. The Holding Cell Areas Policy Directive 305.4 has been approved by the DPD, BOPC, and DOJ.

Paragraph U-56

Material Witness Policies

56. The DPD shall revise its material witness policies to define material witness as that term is defined in this Agreement and remove the term “police witness” from DPD policies and procedures.

STATUS: Due to the association between paragraphs 56 and 57 the status of these paragraphs is reported jointly under paragraph 57.

Paragraph U-57

Material Witness Policies

57. The DPD shall obtain a court order prior to taking a material witness into DPD custody. The DPD shall document on an auditable form the detention of each material witness and attach a copy of the court order authorizing the detention.

STATUS: The Arrest Directive 202.1 incorporates the Material Witness Policy and has been approved. The Confinement of Material Witness Training Directive 04-01 includes the definition of a material witness as defined in this agreement and has been approved and disseminated to personnel. All “police witness” terminology has been removed from all pertinent DPD policy and procedure directives. The Monitor provided TA on auditable form UF-006 (Detention of Material Witness) on February 9, 2005, and the DPD is awaiting comment from the Monitor. Upon revision of the auditable form the policy will be disseminated.

Paragraph U-60

Command Notification

60. The DPD shall require the commander of the precinct and, if applicable, of the specialized unit to review in writing all violations of DPD prompt judicial review, holds, restrictions and material witness policies on a daily basis. The commander's review shall include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

STATUS: The Arrest "Command Notification" Directive 202.1 is **compliant** with the mandates of this paragraph. The Monitor provided TA on auditable form U-60 on February 9, 2005, and the DPD is awaiting comment from the Monitor. Based on TA, commander's reviews are included (lower portion of auditable form) in the following auditable forms: Investigatory Stop and Frisk UF-003, Warrant Submission Form UF-004, Detention of Material Witness UF-006, Hold Form UF-007, Detainee Telephone and/or Visitor Restriction UF-008.

Paragraph U-72

General Policies

72. The DPD shall advise all officers, including supervisors, that taking police action in violation of DPD policy shall subject officers to discipline, possible criminal prosecution, and/or civil liability.

STATUS: The "Code of Conduct" Directive 102.3 General Procedures was approved by the DPD and the BOPC and the DPD **awaits a compliance determination form the Monitor.**

Paragraph U-73

General Policies

73. The DPD and the City shall develop a plan for ensuring regular field deployment of an adequate number of supervisors of patrol units and specialized units that deploy in the field to implement the provisions of this agreement.

STATUS: To ensure regular field deployment of an adequate number of supervisors of patrol and specialized units, a teletype has been generated and issued effective, February 28, 2005, to address the proper usage of the Daily Detail Sheet (DPD 550). This communication further clarifies the DPD's policy and improves the accuracy in reporting the ratio of supervisors (patrol/specialized units)-to-officers.

Paragraph U-74

General Policies

74. The DPD shall enforce its policies requiring all DPD officers to report any misconduct committed by another DPD officer, whether committed on-duty or off-duty.

STATUS: The Code of Conduct Directive 102.3 General Procedures was approved by the DPD and the BOPC. The **compliance** requirements of the paragraph have been met and the DPD, as it always has, enforces this policy vigorously.

Paragraph U-75

General Policies

75. The DPD shall revise its policies regarding off-duty officers taking police action to:
- a. provide that off-duty officers shall notify on-duty DPD or local law enforcement officers before taking police action, absent exigent circumstances, so that they may respond with appropriate personnel and resources to handle the problem;
 - b. prohibit off-duty officers from carrying or using firearms or taking police action in situations where an officer's performance may be impaired or the officer's ability to take objective action may be compromised; and
 - c. provide that, if it appears the officer has consumed alcohol or is otherwise impaired, the officer shall submit to field sobriety, breathalyser, and/or blood tests.

STATUS: The "Arrest Policy" Directive 202.1 addresses 75a of the paragraph. The "Firearms Policy" Directive 304.1 addresses 75b of the paragraph. The "Code of Conduct" Directive 102.3 addresses 75c of the paragraph. All three directives have been approved by the DPD and BOPC.

All of the approved policies/directives have been forwarded to the DOJ and the Monitor (Arrest Policy October 14, 2004, Firearms Policy October 07, 2004, and Code of Conduct August 11, 2004). According to the DOJ in a memorandum dated December 17, 2004, "the resubmitted Firearms Policy Directive 304.1 does not yet adequately address many of the issues raised by our experts." Revisions are currently in progress to address the concerns raised by the DOJ.

Paragraph U-76

General Policies

76. The DPD shall revise its policies regarding prisoners to:
- a. require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical Monitoring;
 - b. require officers to utilize appropriate precautions when interacting with a prisoner who demonstrates he or she is recalcitrant or resistant, including summoning additional officers, summoning a supervisor and using appropriate restraints; and
 - c. prohibit arresting and transporting officers from accompanying prisoners into the holding cell area.

STATUS: The "Holding Cell Areas Policy" Directive 305.4 addresses 76 a, b, & c. and has been approved by the DPD, BOPC, and DOJ. Dissemination of this policy, however, will not begin until all related auditable forms have been completed inclusive of Monitor and DOJ comments and TA.

77. The DPD shall develop a foot pursuit policy to:

- a. require officers to consider particular factors in determining whether a foot pursuit is appropriate, including the offense committed by the subject, whether the subject is armed, the location (e.g., lighting and officer familiarity), whether more than one officer is available to engage in the pursuit, the proximity of reinforcements, and the ability to apprehend the subject at a later date;
- b. emphasize alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements;
- c. emphasize the danger of pursuing and engaging a subject with a firearm in hand; and
- d. require officers to document all foot pursuits that involve a use of force on a separate, auditable form, such as the use of force report.

STATUS: The Foot Pursuit Policy Directive 202.7 was revised per a policy review letter from the Monitor dated July 8, 2004. The directive was forwarded to the DOJ and the Monitor on October 22, 2004. On November 16, 2004, the directive was reviewed by the Monitor via conference call meeting with the CRD. The revised directive was forwarded to the BOPC and approved on February 3, 2005. The policy was disseminated on February 22, 2005.

84. The DPD shall prepare, for the review and approval of the DOJ, a Review Protocol for using the risk management database that addresses data analysis, supervisory assessment, supervisory intervention, documentation and auditing. The Review Protocol shall require:

- a. that when an officer or group of officers pass a threshold established in the Report Protocol the officer's(s) supervisor shall review all information in the risk management database regarding the officer(s), together with other relevant information;
- b. the reviewing supervisor to document whether he or she took non-disciplinary corrective action or recommended disciplinary action, the basis for this decision, and what corrective action was taken, if any;
- c. supervisors to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual officer and unit activity for at-risk behavior;
- d. precinct and unit commanders to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual supervisor's assessment and analysis of information in the risk management database and the corrective action taken by supervisors;
- e. appropriate DPD supervisors to review and evaluate, on a regular basis

- but not less than quarterly, police performance citywide, using all relevant information from the risk management database and other relevant information and to evaluate and make appropriate comparisons regarding the performance of all DPD units in order to identify any significant patterns or series of incidents;
- f. commanders and supervisors conducting such periodic reviews to take non-disciplinary corrective action when appropriate for individual officers, supervisors or units and document any such action in writing;
 - g. that the information in the database be accessible to commanders, supervisors and the BPC;
 - h. that the information in the database is considered when evaluating a DPD employee for transfer or promotion;
 - i. commanders and supervisors to promptly review records of all officers recently transferred to their sections and units;
 - j. commanders and supervisors to be evaluated on their ability to use the risk management database to enhance effectiveness and reduce risk;
 - k. that a designated DPD unit be responsible for managing and administering the database, including conducting quarterly audits of the system to ensure action is taken according to the process described above; and
 - l. that aggregated information from the risk management database be shared on a regular and periodic basis with training and policy planning staff.

STATUS: Due to the association between paragraphs 84 and 85 the status of these paragraphs is reported jointly under paragraph 85.

Paragraph U-85

Management and Supervision

85. The DPD shall seek to ensure that the risk management database is created as expeditiously as possible. As part of this effort, the DPD, in consultation with the DOJ, shall organize the risk management database into modules in developing the Data Input Plan, the Report Protocol, the Review Protocol and the Request for Proposals and in negotiating with contractors, such that difficulties with one aspect of the risk management database do not delay implementation of other modules.

STATUS: Information Technology Services (ITS) and the RMB completed the aforementioned risk management documents. Copies of the documents were forwarded to the DOJ on October 25, 2004. The DPD awaits the DOJ's response.

Paragraph U-88 d&e

Management and Supervision

88. The new risk management database shall be developed and implemented according to the following schedule:

- d. By March 30, 2004, the DPD shall submit the Review Protocol to the DOJ for review and approval. The DPD shall share drafts of this document with the DOJ and the Monitor (a position described in Section X) to allow the DOJ and the Monitor to become familiar with the document as it develops and to provide informal comments on it. The DPD and the DOJ shall together seek to ensure that the protocol receives final approval within 30 days after it is presented for review and approval.
- e. By May 31, 2004, the DPD shall select the contractor to create the risk management database.

STATUS: 88d The Review Protocol was forwarded to the DOJ on October 25, 2004, and the DPD awaits DOJ approval.

88e The DPD is awaiting approval of the Request For Proposal (RFP) from the DOJ.

Paragraph U-89

Management and Supervision

89. Prior to implementation of the new risk management database, the DPD shall develop an interim system to identify patterns of conduct by DPD officers or groups of officers. The interim system shall require periodic reviews of relevant information, but no less than monthly, and evaluations of whether an officer or group of officers is engaging in at risk behavior. This interim system shall collect and analyze the following information: citizen complaint reports and investigations; use of force investigations; shootings; vehicle chases; injured prisoner investigations; traffic collisions; canisters of chemical spray issued to officers; firearms qualifications; training; prompt judicial review; disciplinary action; arrest without probable cause; all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion; and all reports regarding interviews, interrogations or conveyances in violation of DPD policy in a format that facilitates entry into the final risk management database, to the fullest extent possible.

STATUS: Training on the Interim Management Awareness System (IMAS) began on November 29, 2004, commencing with the DPD's First Precinct, and is due to be completed (all DPD precincts) by May 1, 2005.

Paragraph U-92

Oversight

92. The DPD shall develop a protocol for conducting audits to be used by each officer or supervisor charged with conducting audits. The protocol shall establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency and cover all DPD units and commands.

STATUS: The Audit Protocol was revised for fiscal year 2004-05. A revised Audit Protocol will be submitted to the Monitor on February 28, 2005. The major changes related to the annual audit schedule, report approval process, continuing education requirements, and electronic data collection initiatives.

Paragraph U-93

Oversight

93. The DPD shall issue a report to the Chief of Police on the result of each audit and examine whether there is consistency throughout the DPD. The DPD shall also provide the reports to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.

STATUS: The following four audits (Emergency Preparedness, Food Service, Detainee Safety and Medical & Mental Health) were completed, reviewed, approved and forwarded to the Monitor on January 31, 2005. The audits were subsequently forwarded to all Deputy Chiefs on February 15, 2005, who in turn reviewed the audit findings and forwarded the audits and findings to the precinct commanding officers for appropriate corrective and/or disciplinary action.

Paragraph U-94

Oversight

94. The DPD shall conduct regularly scheduled quarterly audits, covering all DPD units and commands that investigate uses of force, prisoner injuries, and allegations of misconduct. The audits shall include reviewing a sample of command, IAD, and Homicide Section investigations; evaluating whether the actions of the officer and the subject were captured correctly in the investigative report; and evaluating the preservation and analysis of the evidence and the appropriateness of the investigator's conclusions.

STATUS: The Detainee Injury Audit is scheduled to be conducted in February 2005. The Use of Force Audit is scheduled to commence in June 2005.

Paragraph U-95

Oversight

95. The DPD shall conduct regularly scheduled quarterly audits covering all precincts and specialized units that review a sample of findings of probable cause, stop and frisk reports and witness identification and questioning documentation. The audits shall include evaluating the scope, duration, content, and voluntariness, if appropriate, of the police interaction. The audits shall include a comparison of the number of arrests to requests for warrants and a comparison of the number of arrests for which warrants were sought to judicial findings of probable cause.

STATUS: The Witness Identification & Questioning Audit is currently being performed and a report will be submitted in April 2005. The Audit Team will perform the next Arrest Practices Audit in August 2005.

Paragraph U-97**Oversight**

97. The Chief Investigator of OCI shall designate an individual or entity to conduct regularly scheduled quarterly audits that examine external complaints and complaint investigations. The audit shall include reviewing a sample of complaints that were resolved informally, reviewing a sample of OCI investigations of complaints, and contacting the complainants to evaluate whether the actions and views of the complainant were captured correctly in the complaint report and/or investigation. The Chief Investigator shall review all audit reports regarding officers under OCI command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.

STATUS: The External Complaint Audit will commence in February 2005.

Paragraph U-98**Oversight**

98. The DPD shall conduct and document periodic random reviews of scout car camera videotapes for training and integrity purposes. In addition, the DPD shall require periodic random surveys of scout car video recording equipment to confirm that it is in proper working order.

STATUS: The DPD is in the process of upgrading to a digital video capture system which records to a server, eliminating the use of videotapes. Uniform policies and procedures for random review are being developed. On October 13, 2004, the Monitor provided TA on in-car video review protocols. On February 21, 2005, the HCCC forwarded the video review protocol to the Training Division who will conduct beta testing and implement training for supervisors.

Paragraph U-100**Use of Video Cameras**

100. The DPD shall repair or replace all non-functioning video cameras.

STATUS: Due to the association between paragraphs 100, 101, and 102 the status of these paragraphs is reported jointly under paragraph 102.

Paragraph U-101**Use of Video Cameras**

101. The DPD policy on video cameras shall be revised and augmented to require:

- a. activation of scout car video cameras at all times the officer is on patrol;
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force, vehicle pursuits and external complaints; and
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated.

STATUS: Due to the association between paragraphs 100, 101, and 102 the status of these paragraphs is reported jointly under paragraph 102.

Paragraph U-102

Use of Video Cameras

102. The DPD policy on video cameras shall require officers to record all motor vehicle stops, consents to search a vehicle, deployments of a drug-detection canine, or vehicle searches.

STATUS: The In-Car Video Camera Policy Directive 303.3, sec. 303.3-3 addresses this paragraph. The directive was approved by the COP and the BOPC and posted on the department's web site.

Currently, there is no backlog of video equipment awaiting repair. Non-functioning video equipment is repaired as damage and/or defects are identified.

This directive is currently being revised due to the implementation of a digital video system. The DPD is in **compliance** with the afore stated paragraphs.

Paragraph U-103

Discipline

103. The City shall ensure that adequate resources are provided to eliminate the backlog of disciplinary cases and that all disciplinary matters are resolved as soon as reasonably possible.

STATUS: Due to the association between paragraphs 103 and 104 the status of these paragraphs is reported jointly under paragraph 104.

Paragraph U-104

Discipline

104. The DPD shall schedule disciplinary hearings, trials, and appeals at appropriately frequent intervals, to prevent a disciplinary backlog from developing. As part of determining how often to schedule such hearings, the DPD shall establish guidelines dictating the maximum period of time that should elapse between each stage of the disciplinary process.

STATUS: As a means of reducing the disciplinary case backlog, the Disciplinary Administration Unit was upgraded to a section with additional personnel added to the section. In addition, a plea forum has been developed and instituted. Plea negotiations take place with an attorney from the respective union, the member, and the department advocate. Once a settlement has been reached, the settlement agreement is then forwarded to the COP and it becomes final and binding upon the COP's agreement to the terms and conditions set forth.

A total of seven hundred and fifty one (751) disciplinary cases were closed in the

year 2004. This leaves a total of only sixty one (61) backlogged cases pending adjudication. Due to the fact that discipline is continual in nature, some delay is unavoidable between the time the member initially commits an infraction and the time the case is ready to go before the proper forum (i.e., pending the disposition of a criminal matter). The DPD is in the process of further refining procedures to meet the requirements of paragraphs U-103 and U-104. The DPD is **compliant** with the terms of these paragraphs.

Paragraph U-105

Discipline

105. The DPD shall create a disciplinary matrix that:

- a. establishes a presumptive range of discipline for each type of rule violation;
- b. increases the presumptive discipline based on both an officer's prior violations of the same rule as well as violations of other rules;
- c. requires that any departure from the presumptive range of discipline must be justified in writing;
- d. provides that the DPD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and
- e. provides that the DPD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.

STATUS: The Disciplinary Matrix was submitted to the CRD on November 17, 2004. On November 22, 2004, a meeting to review the Matrix was held at the CRD. A meeting was held on February 2, 2005, to finalize changes to the disciplinary matrix. The disciplinary matrix has been forwarded to the Monitor and DOJ and the DPD awaits their responses.

Paragraph U-115

Training

115. The DPD shall provide all DPD recruits, officers and supervisors with annual training on custodial detention. Such training shall include DPD policies regarding arrest, arraignment, holds, restrictions, material witness and detention records.

STATUS: Custodial Detention lesson plans and national best practice comparisons were submitted to the Monitor on January 7, 2005. The DPD is awaiting the Monitor's comments. Twenty (20) officers were trained on the Custodial Detention lesson plans January 17-21, 2005.

Paragraph U-116

Training

116. The DPD shall advise officers that the DPD arraignment policy shall not be delayed because of the assignment of the investigation to a specialized unit, the arrest charge(s), the availability of an investigator, the gathering of additional evidence or obtaining a confession.

STATUS: Lesson plans are being developed to reflect new policies.

Paragraph U-117

Training

117. The DPD shall advise officers that whether an individual is a material witness and whether that material witness should be committed to custody is a judicial determination.

STATUS: The Material Witness Training Directive 04-01 was approved and disseminated with an effective date of March 21, 2005.

Paragraph U-118

Training

118. The DPD shall provide supervisors with training in the appropriate evaluation of written reports, including what constitutes a fact based description, the identification of conclusory language not supported by specific facts and catch phrases, or language that so regularly appears in reports that its inclusion requires further explanation by the reporting officer.

STATUS: Lesson plans are being developed to reflect best practices.

Paragraph U-119

Training

119. DPD supervisors shall receive leadership and command accountability training and learn techniques designed to promote proper police practices. This training shall be provided to all DPD supervisors within 30 days of assuming supervisory responsibilities and shall be made part of annual in-service training.

STATUS: Lesson Plans are being developed to reflect best practices.

Paragraph U-120

Training

120. The DPD shall provide training on risk assessment and risk management to all DPD supervisors, including the operation of the risk management database.

STATUS: The RMB began conducting classes for newly promoted supervisors on Implementing Risk Management in a Law Enforcement Agency commencing August 10, 2004. Currently 167 supervisors have been trained which includes 60 in January 2005. The Risk Management training is currently being entered into the IMAS database.

Paragraph U-121

Training

121. The DPD shall provide training on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate.

STATUS: The Investigator Training lesson plan is submitted as an attachment with this status report.

Paragraph U-122

Training

122. The DPD shall provide all supervisors charged with accepting external complaints with appropriate training on handling external complaints that emphasizes interpersonal skills. The DPD shall provide training on the DPD external complaint process, including the role of OCI and IAD in the process, to all new recruits and as part of annual in-service training.

STATUS: The External Complaints lesson plan is incorporated in the Investigator Training lesson plan and is an attachment with this report.

Paragraph U-123

Training

123. The DPD shall develop, subject to DOJ approval, a protocol to enhance the FTO program within 120 days of the effective date of this Agreement. The protocol shall address the criteria and method for selecting and removing the FTOs and for training and evaluating FTOs and trainees.

STATUS: The Field Training Officer forty-hour (40) basic certification course was sent to the Monitor on February 11, 2005 for a compliance determination.

The following data has been submitted for review for completion of this paragraph:

1. FTO 40-hour basic certification course lesson plan
2. Verbal judo lesson plan
3. Ethics and Integrity in policing lesson plan
4. Anger management
5. FTO protocols and National review of best practices comparison in response to the DOJ letter dated April 30, 2004.

6. Field training program manuals from Phoenix (Arizona), Miami Dade County (Florida), Mesa (Arizona) and Dallas (Texas) Police Departments.

Protocols are being revised to reflect best practices.

Paragraph U-139**Training**

139. Subject to the limitations set forth in this Paragraph, the DPD shall reopen for further investigation any investigation the Monitor determines to be incomplete. The Monitor shall provide written instructions for completing any investigation determined to be incomplete. The Monitor shall exercise this authority so that any directive to reopen an investigation is given within a reasonable period following the investigation's conclusion. The Monitor may not exercise this authority concerning any investigation the disposition of which has been officially communicated to the officer who is the subject of the investigation.

STATUS: The contents of any and all investigation files have been made available to the Monitor by the DPD. The Monitor has not requested that any investigations be reopened as of the preparation of this report.

The following is a list of Training Directives and their current status:

<u>Training Directives</u>	<u>Status</u>
04-1 -Material Witness	Disseminated
04-2 -Positional Asphyxia	Under Review by DOJ
04-3 -Use of Force Continuum	Under Review by DOJ
04-4 -Garrity	Under Review by Monitor
04-5 - Suicide Prevention	Under Review by DOJ
04-6 -PR-24	Under Review by DOJ
04-7 - Use of Force Reporting	Under Review by Monitor

The following is a list of UOF CJ policies and their current status:

<u>Use of Force</u>	<u>Status</u>
101.3 -Code of Conduct	Under Review by the Monitor
102.6 -Citizens Complaints	Awaiting comments from the Monitor
201.4 -Canine	Under Review by DOJ
202.1 -Arrests	Approved
202.2 -Search and Seizure	Approved
202.7 -Foot Pursuit	Disseminated
203.1 -Crime Scene Investigation	Under Review by DOJ
203.9 -Custodial Questioning	Under Review by DOJ
303.3 -In-Car Video	Under Revision
304.1 -Firearms	Under Review by DOJ
304.2 -Use of Force	Under Review by DOJ
304.3 -Chemical Spray	Under Review by DOJ
304.4 -Board of Review	Awaiting comments from the Monitor
401.1 -Performance Evaluations	Disseminated
404.1 -Definitions	Disseminated